

General Comparison of Selected California Site Cleanup Programs

September 2005

	CLRRRA (Ca. Land Reuse & Revitalization Act)	Site Designation Process	Prospective Purchaser Policy	Polanco Redevelopment Act	Federal 2002 Brownfields Legislation
Statutory and policy references	H&SC 25395.60-25395.105	H&SC 25260-25268	Policy and Procedure EO- 96-005-PP, HSC Chpt. 6.8	H&SC 33459-33459.8	BFPP: CERCLA 101(40), 107(r) 107(q)(1)(C); CPO: CERCLA 107(q)
Who is eligible?	Innocent Land Owner, Bona Fide Purchaser (acquires site after 1-1-05) or tenant, Contiguous Property Owner; not potentially liable for release of hazardous materials; does all appropriate inquiry, meets certain condition	Responsible Party defined as person who agrees to carry out investigation and remedial action at a site.	Prospective Purchasers, no Responsible Parties; agrees to provide an appropriate level of response at a site.	Redevelopment Agency may take response action or require Responsible Party to clean up site.	BonaFide Prosp. Purchaser (acquires site after 1-11-02) or tenant, Contiguous Property Owner; not potentially liable for costs, does all appropriate inquiry, meets certain conditions.
What sites are eligible?	Urban infill; not state or US EPA listed site; not petroleum Underground Storage Tank (UST) site funded by State fund.	Hazardous materials release site.	Actual hazardous substances release site; not under active enforcement.	Within redevelopment project area.	Facility with hazardous substances release or threatened release.
What is covered?	Release or threatened release of CLRRRA "hazardous materials."	Release/threatened release of H&SC 25260 "hazardous materials."	Actual release, H&SC Chpt. 6.8 "hazardous substances" (incl. hazardous waste).	Release/threatened release of Polanco Act "hazardous substances."	Release/threatened release of CERCLA "hazardous substances" (not incl. petroleum).
Scope of liability protection	Immunity from certain agency actions and from non-agency claims for response costs or other damages.	No other agency may take action against party.	DTSC covenants not to sue under state and federal laws, incl. H&SC Chpt. 6.5.	Redevelopment Agency, certain subsequent property owners, lenders not liable for removal or remedial action.	Not liable as owner or operator for response action or costs incurred.
Protection starts...	When agreement is signed; continuing obligations apply.	At time of Certificate of Completion.	Satisfactory completion of work; comfort letter with RWQCB.	Proper completion of removal or remedial action.	Demonstration that person meets conditions in law.
Protection ends ...	If owner causes or contributes to release; release is not resolved to agency satisfaction; property use changes to unapproved use; owner does not comply; agreement terminates.	If cleanup objectives are not achieved; conditions are violated; release newly discovered; new facts require further action; if there is fraud.	If new information or unknown conditions are discovered; noncompliance with agreement; purchaser causes or contributes to release.	For Polanco Act cleanup under Site Designation Process, same; for any subsequent or unidentified release; if there is fraud.	If there is noncompliance with qualifying conditions.

General Comparison of Selected California Site Cleanup Programs

September 2005

Contribution protection	Immunity provides certain protections.	Not discussed	May provide for contribution protection for matters addressed in Prospective Purchaser Agreement.	Not discussed	US EPA may issue assurance of no enforcement action and contribution protection (for Contiguous Property Owners).
Cleanup criteria	Exercises appropriate care; protective of public health and safety and the environment (Chpt. 6.8 & Water Code Div. 7).	Applicable state and local laws; a permanent remedy.	Consistent with Chpt. 6.8, NCP, federal laws and guidance.	Consistent with state and federal laws and agency cleanup guidelines.	Exercises appropriate care by taking reasonable steps to stop release, & prevent exposure.
Sunset or repeal	1-1-10; immunity already in effect continues.	None	None	None	None

Disclaimer: this table does not contain all statutory requirements; please see references for additional provisions.

LEGEND:

BFPP - Bona Fide Prospective Purchaser

CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act

CPO - Contiguous Property Owner

DTSC - Department of Toxic Substances Control

H&SC - Health & Safety Code

RWQCB - Regional Water Quality Control Board

U.S. EPA - United States Environmental Protection Agency

Chpt. 6.5 - Health & Safety Code, Division 20, Chapter 6.5

Chpt. 6.8 - Health & Safety Code, Division 20, Chapter 6.8